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7 **UNITED STATES DISTRICT COURT**
DISTRICT OF NEVADA

8 UNITED STATES OF AMERICA,)
9 Plaintiff,)
10 v.) **GOVERNMENT'S MEMORANDUM IN**
11 MELVIN D. BUNDY,) **SUPPORT OF MOTION FOR PRETRIAL**
12 Defendant.) **DETENTION**
13

14 The United States, by and through undersigned counsel, respectfully submits this
15 Memorandum in Support of its Motion for Pretrial Detention pursuant to The Bail Reform Act,
16 Title 18, United States Code, Section 3142. As explained herein, the government seeks pretrial
17 detention of defendant Melvin D. Bundy (“Mel Bundy”) both as a risk of non-appearance and as
18 a danger to the safety of others and the community.
19

20 Mel Bundy is the son of Cliven Bundy, and was a tactical decision maker in an
unprecedented and extremely violent and massive armed assault on federal officers that occurred
21 on April 12, 2014, while those officers were performing their duties as part of a court-ordered
22 cattle impoundment operation. Mel Bundy not only coordinated the strategic deployment of the
23 gunmen with his co-defendants, but he led what they described as the “cavalry” in the assault.
24

1 But for the courage of the victim officers to back away from their assailters and abandon the
2 cattle, the actions of Mel Bundy and his co-conspirators would have resulted in catastrophic
3 death or injury to the officers and others. The fact that no one was shot, however, does not
4 mitigate either the level of violence used that day or the intent behind it.



13 [Mel Bundy Conferring with Ammon Bundy As He Leads the Cavalry into the Wash on April 12]

14 Mel Bundy is also a beneficiary of the extortion – he is a member of the family that
15 owns the ranch that runs the cattle. He still retains the proceeds of his crime to this day.

16 Mel Bundy willingly put the lives of hundreds of people at risk on April 12. He is
17 currently charged with crimes of violence including using and carrying firearms in relation to a
18 crime of violence under Title 18, United States Code, Section 924(c). As such, the Bail Reform
19 Act presumes that there are no conditions or combination of conditions that will ensure the safety
20 of the community. Here, no evidence has been adduced during the investigation of the instant
21 charges that even remotely hints at a rebuttal to that presumption. In fact, all the evidence
22 suggests that Mel Bundy will continue to act lawlessly, will not abide by court orders, and will
23 use violence to ensure that federal laws are not enforced as to him.

1 **I. INTRODUCTION**

2 On March 2, 2016, a federal grand jury seated in the District of Nevada returned a
3 Superseding Indictment, charging Mel Bundy and 18 other defendants with, among other things,
4 conspiring to assault federal officers, obstruct justice, extort federal officers and use and carry a
5 firearm in relation to a crime of violence, and the substantive offenses that comprise the objects
6 of the conspiracy, all in violation of Title 18, United States Code, Sections 371; 111(a)(1) and
7 (b); 1503; 1951; and 924(c). These charges – as made clear in the Indictment – arise from Mel
8 Bundy’s significant role in executing a massive armed assault against federal law enforcement
9 officers in or near Bunkerville, Nevada, on April 12, 2014.

10 Mel Bundy was arrested in Arizona on the instant charges on March 3, 2016 pursuant to
11 an arrest warrant issued from the Superseding Indictment. At his Rule 5 hearing, Mel Bundy
12 elected to be transferred to the District of Nevada for his detention hearing.

13 Mel Bundy’s background, stance toward federal authority and jurisdiction and his actions
14 in this case establish that he presents a danger to others and to the community and a risk of non-
15 appearance and he cannot overcome the presumption that he shall be detained. Based on the
16 evidence adduced from its investigation to date, the government proffers the following in support
17 of its motion for pretrial detention:

18 **A. Background.**

19 Mel Bundy, age 42, is the son of co-defendant Cliven Bundy (“Bundy”). Mel Bundy was
20 raised in Bunkerville, Nevada. As an adult, he lived on the public land in the Gold Butte area
21 across from the Bundy Ranch property for a period of time. In 2014, he worked in the Round
22 Mountain area of Nevada. As of April 1, 2014, he left his job to join his father in Bunkerville.
23

1 Mel Bundy is married and has at least four children. He left Bundy Ranch to return to Northern
2 Nevada after the April 2014 assault.

3 Mel Bundy is believed to be unemployed as he was recently laid off by the Smokey
4 Valley Mining company, where he was working as a heavy equipment operator. In January
5 2016, he traveled to Oregon with Ammon and Ryan Bundy where he helped run the armed
6 takeover of the Malheur National Wildlife Refuge (MNWR). Mel Bundy left the refuge at an
7 unknown date and in the weeks preceding his arrest, was observed living and working at the
8 Bundy Ranch and traveling to Arizona.

9 Mel Bundy grew up on his family's 160 acre property in a very rural and sparsely-
10 populated area of the state. Bundy Ranch, as the family refers to the property, is located near the
11 Virgin River a few miles from where Interstate 15 (I-15) crosses from Nevada into Arizona,
12 approximately 90 miles northeast of Las Vegas, Nevada. Bundy Ranch is surrounded by
13 hundreds of thousands of acres of federal public lands commonly referred to as the Gold Butte
14 area or the Bunkerville Allotment. For over half of Mel Bundy's life, his co-defendant and
15 father, Cliven Bundy ("Bundy") used that entire range of land to graze his cattle unlawfully.
16 Bundy, 69, continued to reside at Bundy Ranch until his arrest in Oregon on February 10, 2016,
17 in the instant case.

18 While Bundy claims he is a cattle rancher, his ranching operation – to the extent it can be
19 called that – is unconventional if not bizarre. Rather than manage and control his cattle, he lets
20 them run wild on the public lands with little, if any, human interaction until such time when he
21 traps them and hauls them off to be sold or slaughtered for his own consumption. He does not
22 vaccinate or treat his cattle for disease; does not employ cowboys to control and herd them; does
23 not manage or control breeding; has no knowledge of where all the cattle are located at any given
24

1 time; rarely brands them before he captures them; and has to bait them into traps in order to
2 gather them.

3 Nor does he bring his cattle off the public lands in the off-season to feed them when the
4 already sparse food supply in the desert is even scarcer. Raised in the wild, Bundy's cattle are
5 left to fend for themselves year-round, fighting off predators and scrounging for the meager
6 amounts of food and water available in the difficult and arid terrain that comprises the public
7 lands in that area. Bereft of human interaction, his cattle that manage to survive are wild, mean
8 and ornery. At the time of the events giving rise to the charges, Bundy's cattle numbered over
9 1,000 head, straying as far as 50 miles from his ranch and into the Lake Mead National
10 Recreation Area ("LMNRA"), getting stuck in mud, wandering onto golf courses, straying onto
11 the freeway – foraging aimlessly and wildly, roaming in small groups over hundreds of
12 thousands of acres of federal lands that exist for the use of the general public for many other
13 types of commercial and recreational uses such as camping, hunting, and hiking.

14 Bundy claims he has strong anti-federal government views, proclaiming that the federal
15 government cannot own land under the U.S. Constitution. These are not principled views – and
16 certainly they have no merit legally – but serve conveniently as a way for Bundy to somehow try
17 to convince others that he has some reason for acting lawlessly, other than the obvious one: it
18 serves his own ends and benefits him financially. Untethering himself from the law, Bundy
19 claims he can do with his cattle as he pleases, including not incurring the expenses to manage or
20 control them and not paying for the forage they consume at the expense of federal taxpayers.

21 Federal law requires any rancher to pay fees and obtain grazing permits to run cattle on
22 public lands. The evidence suggests that before 1993, Bundy paid fees and kept current the
23 permit his father before him had acquired for grazing cattle on the Bunkerville Allotment. In
24 1993, however, when BLM restricted both the number of head he could graze and the seasons

1 during which he could graze them, Bundy was faced with the prospect of having to control his
2 herd and bring them off the land during the off-season. It was then that Bundy claimed that he
3 supposedly “fired the BLM” and refused, from then until to the present, to pay any grazing fees
4 or submit to permits.

5 It appears that Bundy made some attempt to fight the 1993 restrictions administratively
6 but to no avail. But despite losing, he continued in his scofflaw ways, ignoring BLM regulations
7 and restrictions pertaining to his use of the public lands, allowing his cattle to run wild and
8 refusing to pay for the forage he leached off the taxpayers.

9 Ultimately, the BLM sued him in 1998 for trespass, the case being filed in the United
10 States District Court for the District of Nevada before then-United States District Judge Johnny
11 Rawlinson. Bundy lost the case and Judge Rawlinson issued an order requiring Bundy to remove
12 his cattle permanently from the Bunkerville Allotment (hereinafter “the 1998 Order”). Making
13 the same failed claims he continues to make to this day – the federal government cannot own the
14 land – Bundy appealed the 1998 Order to the Ninth Circuit but lost there also.

15 Undeterred, Bundy simply ignored the 1998 Order, running his cattle as he always had,
16 violating the 1998 Order just as he had all the other rules and regulations governing public lands.
17 In 1999, Judge Rawlinson issued another order, re-affirming the 1998 Order and fining Bundy
18 for each day he refused to remove his cattle. He ignored that Order just as he had the previous
19 one.

20 Thereafter, other attempts were made to remove or have Bundy remove his cattle, all to
21 no avail. The BLM went back to Court in 2012, filing a new lawsuit against Bundy to remove
22 his cattle from the LMNRA and also filing a motion to renew the 1998 Order pertaining to the
23 Bunkerville Allotment.

1 United States District Judge Lloyd George presided over the 2012 action. As he had
2 before, Bundy claimed that the federal government could not own the land. However, in keeping
3 with well-established legal precedent, Judge George – like every other previous court – rejected
4 Bundy’s claims in a July 2013 Order and required Bundy to permanently remove his cattle from
5 the LMNRA within 45 days.

6 The motion in the 1998 action went before United States District Judge Larry Hicks. Like
7 Judge George, Judge Hicks rejected Bundy’s claims in an October 2013 Order, re-affirming the
8 1998 Order and requiring Bundy to remove his cattle from the Bunkerville Allotment within 45
9 days. The Orders from Judge George and Judge Hicks each authorized the BLM to remove and
10 impound the cattle if Bundy refused to do so, Judge Hicks expressly ordering Bundy not to
11 physically interfere with any seizure or impoundment operation conducted by the BLM.

12 As before, Bundy refused to remove his cattle. Thus, the 2013 Orders in hand, the BLM
13 planned for and commenced impoundment operations beginning around April 5, 2014. From the
14 outset, Bundy interfered. The Superseding Indictment details Bundy’s numerous threats to “do
15 whatever it takes” to prevent the BLM from impounding his cattle and the escalating violence
16 and threats of violence he used to impede and disrupt the impoundment, including blocking
17 convoys, assaulting law enforcement officers and terrorizing civilian employees.

18 Most nefariously – and perhaps most relevant to the detention decision here – Bundy and
19 his sons, including Mel Bundy, recruited gunmen to come to Nevada to confront the federal
20 officers, issuing calls-to-arms over the internet to anyone who would listen to come to Bundy
21 Ranch to confront the officers who were executing the federal court orders to impound the cattle.

22 Having recruited armed gunmen to threaten and assault federal officers because the
23 federal laws they were enforcing interfered with his family’s illegal cattle grazing activities in
24 the past, there is no reason Mel Bundy will not do so again.

1 **B. The April 12, 2014, Armed Assault**

2 By April 12 hundreds of people, including gunmen, had answered Bundy's calls-to-arms
3 against the BLM. As the gunmen arrived, Bundy and his co-conspirators organized them into
4 so-called "militia camps," deploying them from there into armed security checkpoints and
5 patrols. Mel Bundy was the family's designated liaison to those calling themselves "militia" and
6 camping at the "militia camps."

7 On April 12, Bundy rallied his Followers and commanded them to take his cattle back,
8 unleashing over 400 Followers, including at least 60 of them armed, to converge on and assault
9 the BLM's impoundment site, demanding the release of the impounded cattle corralled there.
10 The Superseding Indictment sets out the nature of the assault that day. While the government
11 does not intend to repeat those allegations here, it incorporates them by reference and further
12 proffers as follows.

13 **1. The April 12 assault was an extremely violent act.**

14 As the Court knows, it is a violation of federal law to use a firearm to assault, interfere
15 with or intimidate a federal law enforcement officer. And contrary to the fiction incanted by
16 Bundy and his sons to stir up support, there is no First or Second Amendment right, or other right
17 recognized in the law anywhere, that gives anyone the right to use or carry, let alone brandish,
18 raise or point, a firearm in order to assault, intimidate, interfere with or prevent a federal law
19 enforcement officer from performing his or her duties – whether one thinks the officer is acting
20 constitutionally or not. While that should be obvious to any law abiding citizen, Bundy and his
21 sons and Followers, including Mel Bundy, espouse to the contrary.

22 On April 12, Bundy had mustered more than 60 firearms to assault and intimidate federal
23 law enforcement officers while they were performing their duties. The evidence shows that
24 officers confronted an angry array of more than 270 Followers directly in front of them, their

1 formation being backed up by gunmen brandishing or carrying rifles and firearms in the wash, or
2 perched on high ground in over-watch positions, or in concealed sniper positions aiming their
3 assault rifles from bridges. Among them were approximately forty people on horseback led by
4 Mel Bundy, who both conspirators and federal officers alike described as “the cavalry.” The
5 officers guarding the gate that day, almost to a person, thought either they, or unarmed Followers
6 in front of them, or both, were going to be killed or wounded. Many of these officers, some of
7 them combat veterans, remain profoundly affected emotionally by this event to this day.
8 Witnesses have described the level of violence as so intense that something as innocent as the
9 backfire of vehicle, or someone lighting a firecracker, would have set off a firefight between the
10 gunmen and the law enforcement officers.

11 The Superseding Indictment charges, and the investigation shows, that Bundy and his
12 family, including Mel Bundy, were responsible for recruiting gunmen. Bundy and his co-
13 conspirators did so by issuing numerous calls to arms, inciting and soliciting others to bring
14 weapons to Bundy Ranch, to show force, to make the BLM back down, to surrender, and other
15 similar exhortations. The justification, according to Bundy and his followers: BLM was acting
16 unconstitutionally in impounding his cattle. In other words, BLM was enforcing the law and
17 Bundy didn’t like it – so he organized an armed assault.

18 **2. Bundy, his co-conspirators and Followers have pledged to do it again.**

19 The evidence shows that this was an unprecedented act. The gunmen traveled great
20 distances in a short period of time, answering the call to arms, coming from more than ten states
21 to get to Bundy Ranch to confront the BLM, flooding into the Ranch between April 10 and the
22 morning of April 12. The evidence shows that when the gunmen arrived, the conspirators
23 organized them into camps, armed patrols, and security check points.

1 The evidence shows that Bundy rallied and directed his gunmen and other Followers to
2 get his cattle out of the impoundment site on the morning of April 12. Bundy's son, Ammon, led
3 the assault on one of the entrances to the site. Indicative of his intent that day was his statement
4 to another person as he was drove his truck to the impoundment site: "These federal agencies
5 have a lot of power and they are not just going to give that power up. The people just have to
6 take it, I guess."

7 Mel Bundy also represented the family at the Impoundment site, leading the cavalry into
8 the wash where they formed a skirmish line, displaying a tactical formation suggestive of a
9 military force to the officers across from them.

10 In the immediate aftermath of the assault and extortion, after having delivered the
11 extortionate demands to the SAC and forcing the officers into leaving by threatening violence,
12 Ammon Bundy was asked whether BLM was gone for good. Ammon responded: "They better
13 be or the people will do it again."

14 In an interview later in the evening on April 12, Ammon Bundy stated:

15 We the people expressed our power and as a result the Sheriff took control of his
16 county. The Sheriff must protect the agency of man. The people have the power
-- it's designed that way -- you have the people and then you have the Sheriff.
17 Sovereign citizens on our own land.

18 Moments after the assault, Mel Bundy expressed the same sentiments, indicating that
19 they had driven the BLM out and that if the BLM dared to return, they would "do it again."

20 Many of these same gunmen who conspired with Bundy and his sons to assault the
21 impoundment remain at large and, through Facebook posting and other social media outlets,
22 have pledged to support Bundy again if BLM takes any action against him. There is no evidence
23 to suggest that Bundy or any of his co-defendants could not quickly muster his gunmen again if
24 any law enforcement action is taken against him.

1 **C. Post-Assault: April 13 and thereafter.**

2 To ensure law enforcement did not return to the area, the Bundy family relied on armed
 3 individuals who continued to travel to Bundy Ranch in the months after the assault to protect
 4 Bundy Ranch and the Bundys' use of the public lands. These individuals, camping in and
 5 around what the Bundys designated as "militia camps," engaged in reconnaissance missions,
 6 manned check points on public roads, and conducted armed patrols of the area around Bundy
 7 Ranch to ensure BLM officers were not present and would not return. Bundy and his
 8 conspirators established a firing range on public land which his lead bodyguard used to train
 9 other gunmen to protect Bundy and his ill-gotten gains.

10 Bundy's gunmen also took up over-watch positions along State Route 170, the main
 11 artery into the town of Bunkerville, and attempted to threaten their way into public facilities in
 12 the neighboring town of Mesquite, creating an environment of fear for these communities.

13 Similarly, in an interview posted to the Pete Santilli Show's YouTube channel on or
 14 about April 16, 2014, Bundy was interviewed by an individual named Peter Rense. When asked
 15 whether the BLM still had officers in the area, Bundy stated, "We the people and the militia
 16 definitely rid this place of any of that kind of influence." *See*
 17 <https://www.youtube.com/watch?v=dI-3qYTMGgU> (last visited February 11, 2016). In the
 18 same interview, Bundy expressed dismay that the BLM was allowed to leave with their weapons
 19 on April 12: "we haven't won the war; we've just won one chapter of it." Id. Bundy's
 20 characterization of the assault as part of a larger "war" would be reiterated by his sons in various
 21 ways, reflecting the collective commitment to their ongoing criminal conspiracy.

22 Organized patrols of the public lands continued all through the summer into the fall of
 23 2014. Additionally, evidence shows that telephone lines with roster information were set up,
 24 donation pages on the internet continued to be utilized to solicit funds, and gunmen traveled back

1 and forth from other states to do duty at the Ranch. The purpose of these missions was to protect
2 the Bundys and ensure that the BLM did not return to the public lands either to impound the
3 cattle or for any other purpose.

4 In the fall of 2015, the Bundy Family, both on Bundy's blog, bundyranch.blogspot.com,
5 and on the Bundy Ranch Facebook page, began efforts to amass a movement to prevent two
6 men, Dwight and Steven Hammond, convicted of federal arson-related charges in Oregon from
7 self-surrendering in January for their federal prison sentence. On December 11, 2015, the
8 following message was posted on the Bundy Ranch Facebook page:

9 . . . To all People, Patriot groups, Militias, Coalitions, Churches, Families and
10 other Supporting entities . . . If we felt we could wait until after Christmas to give
you this information we would. The Adversary never sleeps. We must stay aware,
11 and act in these matters of defense. It is our duty to do so. . . . It is certain that
what has happened to the people of Harney County and the Hammond family is a
12 type and a shadow of what will happen to all people across these United States if
we do not put an end to it. . . . Please understand that we must exhaust all prudent
13 measures before taking a physical stand against the horrific actions that the People
of Harney County are enduring (including the Hammond's). . . If that final Notice
is rejected then People across the Union will have justification to assemble and
14 once again restore individual rights. . . .

15 Thank you,
16 The Bundy Family

17 The Hammonds were scheduled to report to federal prison on January 2, 2016. That
same day, the following message was posted to the Bundy Ranch Facebook page:

18 I, Cliven D. Bundy, have been involved for several weeks in the background
19 striving to understand and comprehend your dilemmas in Harney County, Oregon.
20 . . .

21 The United States Justice Department has NO jurisdiction or authority within the
State of Oregon, County of Harney over this type of ranch management. These
22 lands are not under U.S. treaties or commerce, they are not article 4 territories,
and Congress does not have unlimited power. These lands have been admitted
into statehood and are part of the great State of Oregon . . .

23 It is my suggestion, Steven Hammond, that you go and check yourself into
24 Harney County jail asking for protective custody. It is my suggestion, Dwight

1 Hammond, that you go and check yourself into Harney County jail asking for
 2 protective custody. It is my suggestion, Harney County Sheriff David Ward,
 3 accept these two ranchers into your jail, notify the United States Solicitor in
 4 Washington DC that you have these two ranchers in Harney County jail, that they
 will remain there indefinitely under your protective custody and the protection of
 We the People of Harney County and We the People of the United States of
 America.

5 Despite the Bundy family's efforts otherwise, the Hammonds reported for their federal
 6 sentence as directed to do so on January 2, 2016. However, that same day, Ammon Bundy, R.
 7 Bundy, Mel Bundy, Ryan Payne and others took over the MNWR, occupying it with guns and
 8 openly stating their intention to prevent federal officers from returning to do their work on the
 9 refuge.

10 Bundy made statements in the media, linking the April 12, 2014, assault to the MNWR
 11 occupation. In a video and article from the Channel 8 Las Vegas Now website, titled "Rancher
 12 responds to calls for his arrest," posted on or about January 19, 2016, Bundy stated, "I'm not
 13 gonna ever let the federal government come here and abuse me, and my ranch, and my cattle and
 14 the public again. . . .We have really enjoyed our freedom and liberty out here and enjoyed the
 15 land, and that's what the Bundy standoff was all about. It was to give access to the people, and I
 16 would be able to continue ranching and tradition. . ." With respect to the MNWR takeover,
 17 Bundy stated, "Somebody has to stand up, and it happened to be my sons that stood, and they
 18 will stand. They're not going to give up." [http://www.lasvegasnow.com/news/rancher-responds-](http://www.lasvegasnow.com/news/rancher-responds-to-calls-for-his-arrest)
 19 [to-calls-for-his-arrest](#) (last visited February 13, 2016).

20 On January 22, 2016, weeks into the MNWR occupation, in a video and an article from
 21 the Fox 5 Las Vegas website, titled "Activists call on government to arrest Cliven Bundy, sons."
 22 Bundy stated about the MNWR occupation, "They did something they had to do. It has been
 23 extreme but the world has been listening." In the same interview, addressing the April 12
 24 assault, Bundy stated, it was "very much a success. We are standing in the freest place on earth.. .

1 . Quit worrying about the Bundys, and if we're terrorists, so what? We're terrorists We the
 2 People are enjoying freedom here." <http://www.fox5vegas.com/story/31036532/activists-call-on-government-to-arrest-cliven-bundy-sons> (last visited February 13, 2016).

4 **D. MEL BUNDY'S ROLE IN THE CONSPIRACY**

5 **1. Mel Bundy Ambushes a BLM Convoy; Is Liaison to "the Militia"**

6 Not surprisingly, Bundy has passed his lawlessness – and his complete rejection of
 7 federal laws and federal courts – onto his children, including Mel Bundy. In 2011, Mel Bundy
 8 set up a trailer on public lands across from the Bundy Ranch where he lived for an extended
 9 period of time despite the BLM's efforts to remove him.

10 On April 1, 2014, Mel Bundy was quoted in the Las Vegas Review Journal following a
 11 tour with Bundy and Mel Bundy around Bunkerville in anticipation of the impoundment.
 12 According to the article, Mel Bundy described the situation as a "family emergency," stating that
 13 "this is costing me money too."

14 On April 9, 2014, Mel Bundy was present during in the interception of a BLM convoy as
 15 it emerged from the public lands onto State Route 170 (SR 170). Co-defendant Pete Santilli first
 16 blocked the convoy with his car, allowing Bundy supporters to congregate around the convoy.
 17 They struck at the vehicles and moved in front of them as they made their way from the dirt to
 18 the hardtop road. Ammon Bundy then drove an ATV into a dump truck in the convoy. Two
 19 BLM civilians were inside the cabin of this dump truck. As the crowd pulled at the door handles
 20 and beat on the glass windows, they feared they would be bodily dragged from the truck if the
 21 crowd got in.

22 Ammon Bundy grabbed an officer's arm, lunged at another officer and then kicked a
 23 police dog as it moved to prevent him from doing so. Another member of the crowd picked up a
 24 rock and moved to throw it at the officers and was only stopped from doing so when another

1 officer pulled his arm down. Others in the crowd screamed and pushed at the officers as they
 2 attempted to protect their civilian convoy and clear it from the scene. When the convoy was
 3 finally able to leave, the crowd shouted for the BLM to leave and Mel Bundy exulted at their
 4 departure.

5 Mel Bundy also served as the family's liaison to the gunmen they referred to as the
 6 "militia." He was observed on April 11, 2014, at the Bundys' rally coordinating with co-
 7 defendant Ryan Payne regarding the movement of "the militia."

8 **2. Mel Bundy Leads the Cavalry in the Assault on April 12;
 Releases the Cattle**

9 On the morning of April 12, 2014, Mel Bundy and approximately forty others arrived at
 10 the Bundys' staging area on horseback. They put on a show for the already excited crowd, riding
 11 up to a hilltop across from the staging area, forming a line and waving flags. Bundy then
 12 announced to the crowd that they were going to go get the cattle from the Impoundment site and
 13 explained that they would block the freeway while the "horse people" went up "power line road"
 14 and met them at the "Toquop Bridge."

15 Mel Bundy then led those on horseback to the Impoundment site, arriving in the wash to
 16 cheers from the Bundy Followers. *See* Government Exhibit 1. Mel Bundy, the horsemen and
 17 those on foot then formed a skirmish line facing the BLM officers across the wash. *See id.*

18 As stated, above, on May 3, 2014, in an interview, Ryan Payne described the plan that he
 19 and Mel Bundy had created for the "cohesion" between the gunmen and the Bundy family as
 20 follows:

21 Me and Mel Bundy put together the plan for the cohesion between the Bundys
 22 and the militia, which is what you saw on Saturday. Sending half of the guys up
 23 to support the protestors and keep overwatch and make sure that if the BLM
 24 wanted to get froggy, that it wouldn't be good for them. And keeping half of the force back as a QRF. We actually kept the structured half of the force back as QRF. The guys that were in uniform that had on all their gear. The guys that

1 were in uniform, that were here as structured units, we kept them back as QRF.
 2 Then, I actually sent a little bit of them, six dudes, to put in counter sniper
 3 positions. They got in all their snipers under our sights.

4 As the BLM officers surrendered the Impoundment site to the Bundys, Ryan Bundy
 5 announced to the Followers the plan for releasing the cattle. Mel Bundy reminded Ryan Bundy
 6 to recognize the authority of the local police officers present, emphasizing the Bundys' and their
 7 Followers total rejection of the authority of federal law enforcement officers.

8 Moments after the assault, Mel Bundy openly celebrated his family's victory in a
 9 recorded interview in the Toquop Wash as they prepared to release the cattle from the
 10 Impoundment site. *See* Government Exhibit 2a. Mel Bundy told the interviewer: "we're getting
 11 the cows back . . . all of them. . . we didn't come for one or two, we're getting them all." *Id.* at
 12 00:04-13. When asked about the rest of the round up, Mel Bundy stated, "They're [the BLM]
 13 done. The demands were demob . . . Demobilize and get out of here . . . They did it . . . they
 14 wanted to go. Them guys were scared shitless of the people . . ." *Id.* at 00:45-1:02. "We got rid
 15 of the BLM, sent them home with their tail between their legs." *Id.* at 2:07-2:11. When asked
 16 about the BLM coming back, Mel Bundy stated, "As far as them com[ing] back, I ain't scared of
 17 the boogey man...you know... and if they do, we'll do it again...and they know it...and then
 18 we're gonna go to Arizona and do it and then we'll go to Utah. . ." *Id.* at 3:02-3:16.

19 Mel Bundy then traveled into the Impoundment Site and assisted Ryan Bundy in
 20 releasing the cattle impounded by the BLM and driving them back onto the public lands.

21 **3. Mel Bundy's Post April 12 Violent Rhetoric and Disregard for
 22 Federal Laws Continue**

23 Since the April 12 assault, Mel Bundy continues to support the conspiracy both in actions
 24 and rhetoric.

1 On July 3, 2015, Mel Bundy posted a status update on his Facebook page, stating in part:
 2 “Hey people, how about that EPA? . . . is the epa any different than the other government
 3 bureaucracys, the blm the us forest service? . . . are we going to recognize their authority . And
 4 then the fines. The federal courts against you. How about we all just say hell no to all of this
 5 nonsense. . . .”

6 On September 15, 2015, Mel Bundy posted on Facebook a message stating “states due
 7 supercedad. So why does the blm and the forest servest claim most of our state land? Because
 8 congress says so? I do think so, and our founding fathers forbid it. So lets all keep fighting and
 9 educating ourselves and others.” *See* Government Exhibit 3.

10 On November 1, 2015, Mel Bundy posted on his Facebook page a link to a YouTube
 11 video titled, “A Day at Bundy’s (Trailer) with the message, “A must see. My blood is boiling
 12 again. Thanks to all the militia and civilians who are willing. We together will always scatter
 13 the vermin.” *See* Government Exhibit 4.

14 On November 10, 2015, Mel Bundy shared a link to a change.org petition on his
 15 Facebook page entitled, “Stop the BLM From Restricting Our Land,” and included the statement,
 16 “. . . When and not if the blm and forest service in conjunction with home land security arrive in
 17 force it is then the responsibility of our county sheriffs to defend our rights to these lands.” *See*
 18 Government Exhibit 5.

19 On November 15, 2015, Mel Bundy also commented on a picture of Ammon Bundy
 20 posted on Facebook by another user depicting Ammon Bundy holding a BLM closure sign
 21 upside down, stating, “Love it. And must say, NEVER AGAIN blm. Not in sovereign states.
 22 Law doesn’t allow for it, just ask your Sheriff.” *See* Government Exhibit 6.

23 On November 30, 2015, Mel Bundy posted a photograph depicting Dennis Michael
 24 Lynch’s DVD, “A Day at Bundys,” on his Facebook page along with the following message:

1 Find it, order it. This is an eye opener for those that questioned the actions of the
2 Bundy family and the support volunteered by the people. At that point in time
when the cowardly sheriff Doug Gallespie terranady failed it. It became
necessary for a organized and well regulated militia to intrevien. Injoy.
3

4 *See Government Exhibit 7.*

5 On December 6, 2015, Mel Bundy posted a photograph of a rifle on his Facebook page,
6 stating "Setting up the minni 14. Back up is always nice." *See Government Exhibit 8.*

7 On or about January 2, 2016, Mel Bundy, along with his co-defendants and brothers
8 Ryan Bundy and Ammon Bundy, as well as co-defendant Ryan Payne, and others who were
9 involved in the April 12 assault in Nevada, traveled to Oregon and engaged in an armed takeover
10 of MNWR. *See Government Exhibit 9.*

11 On January 5, 2016, Mel Bundy called others to join in the criminal takeover of the
12 MNWR, posting the following message to his Facebook page:

13 Come all. The good people of Harney County have suffered long enough to
14 justify this form of action. The people of Harney County are testifying of the
15 agreeigious tactics used by the federal government in stealing their ranches . . .
16 The people there have been scared to make a stand due to the terror instilled in
17 them by the feds. As they watch those who have made noise and resisted in efforts
18 to remain end up in prison. The feds. have no checks and balances of their
19 actions. The elected county officials don't understand their oaths of office to
20 defend the rights of resource use in their country. Because of their ignorance of
21 the duties they swore to perform when elected, they assist in the robbery . . . The
22 peacefull conclusion to all this can only come when lands and resources are
23 returned to the people . . . and the county officials find the courage to send the
24 feds home.

20 In the midst of the MNWR takeover, Mel Bundy found time to call out other Bundy
21 Ranch conspirators for failing to take action. On January 14, 2016, in response to a long post by
22 a Bundy Ranch gunman discussing the MNWR takeover, Mel Bundy commented:

23 I'll defend Ryan Payne all day long. You may not. Choices. I also know action
24 speaks much louder than bull shit. He's been there and yes is still here. I'm not a
military man but I understand the code, no man left behind. Here the topic is one

1 of states souvernty. This man Ryan Payne understands the bully code witch is
2 devide and concour, the very tacticic this federal government uses against us.
3 You may shoot while shaking and miss your target, you have missed. Until I see
4 your efforts put forth in defending the freedoms pertaining to land use hereto
fought for speek no more. You will not devide us in this great cause in
reconfirming the validity of the 10th amendment. When this mission is complete
Ryan Payne will be here still. Where are you. Booo!

5 See Government Exhibit 10.

6 On January 14, 2016, in response to a presidential campaign video, Mel Bundy posted on
7 his Facebook page the following status update:

8 What in the hell is your plan for the blm, forest service, department of
9 agriculture? Let's also stop and reverse the illegal aliens called the federal
government crossing our state borders uninvited.

10 Also on January 14, 2016, Mel Bundy posted a status update on Facebook stating:

11 I'll be in Burns tomorrow. What do you think should be said that will help the
12 meek sheriff to muster the strength in keeping the oath of office. No we are not
leaving without resolve. Can you believe the corruption we are uncovering? Fear
not, we got this.

13 That same day, Mel Bundy posted yet another message to Facebook, stating:

14 There are folks that continue in atempts to scare the living #-@(# out of me in an
attempt to convince me to run away from this. Sorry. Come one come all, you
institutionized will be educated. You know, lets make freedom ring again. Suck
it up. Separation of states and the federal government. Ten amendment! You
know, that constitutional stuff. Gather yourselves and take part in making a hard
stand.

15 On January 15, 2016, Mel Bundy posted a comment to co-defendant Joseph
16 O'Shaughnessy's Facebook post, "Get over all the fun conspiracy theories and do your damn
duty. Go to the refuge and stop being scared. After all you have talked tuff long enough." See
17 Government Exhibit 11.

18 On January 20, 2016, Mel Bundy posted the following status update and photograph to
19 his Facebook page with a photograph of the American flag hanging upside down:

1 Heavenly Father, I ask for your help at this time in reminding the federal
2 government of there duties and reconfirming to the good people of this nation of
3 their inherited rights from thee. Blood may be required in this effort, if so, so be
4 they will.

5 *See Government Exhibit 12.*

6 On January 23, 2016, Mel Bundy posted a video entitled, "Free the Hammonds," with the
7 following message:

8 Folks: I must say that now is not a good time to be afraid. Speek without fear.
9 Make sacfrices that may at first feel uncomfortable. It becomes easier as you
10 listen to the spirit. Anger is not a sin, its how we direct that passion that can make
11 that positive difference. This is big. We are not going anywhere without our
12 lands first recognized by our state representatives as belonging to we the people.
13 The Hammons will come home and will never go this hell again. Let freedom
14 ring...the government does not own these lands. We do!!!!

15 *See Government Exhibit 13.*

16 On January 23, 2016, Mel Bundy also posted the following status update on Facebook:

17 Trooper school failed so Ryan Payne educates troopers. You know constitution
18 stuff. The stuff these troopers promised to uphold. The federal government
19 owning and managing our lands is not in the Constitution. Troopers should
20 rethink their optimism of coopting with the feds. . . .

21 On January 27, 2016, in a video posted to YouTube Dennis Mel Bundy participated in an
22 interview about the MNWR takeover and arrests and discussed his desire to have county officials
23 to "negotiate with the FBI" so that they would release his brothers to the state:

24 The federal government does not have the constitutional authority to manage
25 lands, to manage resources such as water...and they don't have the authority to
26 arrest you for not obeying all their little laws, and rules and regulations. . . . Once
27 you go into federal custody you really void your constitutional rights. . . You are
28 not represented properly, you are not gonna be judged by a jury of your peers, you
29 know you're going before a federal judge, you're trying to plea your case, we
30 haven't been very successful with that in the past...we know it's unconstitutional
31 to begin with, and so we want to make sure that Ammon and Ryan get a fair trial,
32 but it, it can't be in a federal, federal court, they're just, they don't have any hope
33 at all there. . . . The Sheriff needs to go and get them from the FBI and put them
34 in the county jail and we'll go from there.

1 See Government Exhibit 2b at 00:53-2:44; see also www.youtube.com/watch?v=XS1umH-4pec
 2 (last visited February 29, 2016).

3 During this interview, when asked “where is this going?” Mel Bundy responded: “. . . I
 4 see a whole migration of people heading to Oregon . . . this situation is only gonna get a little
 5 more hairy . . . I don’t think they understood fully what they are up against. The tenacity of the
 6 people, the patriots in this country . . . we’re not going to stop . . . people are not gonna let this go
 7 away. . . . See Government Exhibit 2b at 3:35-4:15. He also stated, “This is much bigger [than
 8 the April 12, 2014 assault]. . . this is only getting bigger, people are, people are upset. People are
 9 very upset.” *Id.* at 4:40-5:11.

10 On or about February 2, 2016, after Cliven Bundy disseminated his “Notice to Harney
 11 County Sheriff,” discussed above, Mel Bundy shared the Notice on his own Facebook page, with
 12 the status update: “People this is now or never. Maintain our position. People stand and
 13 prectect.” See Government Exhibit 14.

14 On February 16, 2016, another Facebook user posted a message, stating “From Mel
 15 Bundy,” and tagging him in the post, in which Mel Bundy stated:

16 I’ve been informed the blm with contact thieves are steeling my parents catle. I
 17 have not confirmed it. We can use all eyes and ears at this time. Sources tell me
 18 that they are taking the cows off the ranch and transporting them into Arizona and
 then into Utah. People can recognize the VO brand on the animals left hip.
 Thanks.

19 On February 21, 2016, in response to a video titled, “BLM Employees Bragging About
 20 Stealing Land from WWII Vets,” Mel Bundy posted the following comment:

21 Let them come and attemp to take our land out here in the Nevada desert. They
 22 will not succeed. These land thieves that are paid by us will be stopeed. Sorry
 rainbow lovers, you can’t get what we have worked for. A fight, we’ll I’m all
 in!!!

23 See Government Exhibit 15.

II. ARGUMENT

The Bail Reform Act provides that a judicial officer shall detain a defendant pending trial where “no conditions or combination of conditions will reasonably assure the appearance of the person as required and the safety of any other person and the community.” 18 U.S.C. § 3142(e). Detention is appropriate where a defendant poses either a danger to the community or a risk of non-appearance and it is not necessary to prove both. *See United States v. Motamedi*, 767 F.2d 1403, 1406 (9th Cir. 1985). The Government must establish by clear and convincing evidence that the defendant presents a danger to the community and by a preponderance of the evidence that the defendant is a risk of non-appearance. *Id.*

In determining whether pretrial detention is appropriate, Section 3142 provides four factors for the Court to consider: (1) the nature and circumstances of the offense charged, including whether the offense charged is a crime of violence; (2) the weight of the evidence against the defendant; (3) the history and characteristics of the defendant; and (4) the nature and seriousness of the danger posed by the defendant's release. *United States v. Townsend*, 897 F.2d 989, 994 (9th Cir. 1990); 18 U.S.C. § 3142(g).

Where, as here, there is probable cause to believe that the defendant has committed an offense under Title 18, United States Code, Section 924(c), the court shall presume, subject to rebuttal, that no condition or combination of conditions will reasonably assure the appearance of the person as required and the safety of the community. 18 U.S.C. § 3142(e)(3)(B).

At the detention hearing, the Court may properly rely upon a proffer by counsel in determining a defendant's danger to the community or risk of flight. *See United States v. Winsor*, 785 F.2d 755, 756 (9th Cir. 1986) ("[T]he government may proceed in a detention hearing by proffer or hearsay.")

1 **A. The Offenses Charged Are Based on Mel Bundy's On-Going Defiance of**
2 **Federal Court Orders and Include Crimes of Violence.**

3 Crimes of violence for purposes of the Bail Reform Act include any offense that has as
4 “an element of the offense the use, attempted use, or threatened use of physical force against the
5 person or property of another,” and is a felony that “by its nature, involves a substantial risk that
6 physical force against the person or property of another may be used in the course of committing
7 the offense.” *See* 18 U.S.C. § 3156(a)(4)(A). Here, the Indictment includes crimes of violence:
8 assault on a federal officer with a firearm and deadly weapon; extortion by force and violence;
9 Section 924(c) counts as to each; and conspiracy to commit same.

10 Mel Bundy is lawless and violent. In April 2014, he recruited and led hundreds of
11 Followers, including dozens of gunmen armed with assault rifles and others on horseback, in an
12 assault on federal law enforcement officers. In doing so, they shut down an interstate, risking
13 hundreds of people’s lives in the wash and trapping carloads of innocent people and law
14 enforcement officers in the line of fire.

15 The inescapable corollary to his words and actions is that Mel Bundy will do it again if
16 the opportunity presents itself. Indeed, Mel Bundy has said that if the BLM come back, that they
17 “will do it again.” *See* Government Exhibit 2a. Between April 2014 and the present, he has
18 repeatedly recommitted to using force against federal law enforcement officers enforcing federal
19 laws. In January 2016, he participated in an armed takeover of the MNWR and called upon
20 others to do so as well.

21 In the two weeks leading up to his arrest in this case, Mel Bundy has affirmed that he is
22 willing and prepared to use violence to prevent the BLM from resuming its duties on the Gold
23 Butte public lands, including removing cattle from it. To that end, Mel Bundy put out a post
24 asking for “eyes” and “ears” to ensure the BLM was not removing his father’s cattle. The

1 natural conclusion is that Mel Bundy would take steps to stop such measures by the BLM if
2 confirmed in the same way that they did in April 2014. Then there are these words, posted to his
3 account on February 21, 2016:

4 Let them come and attemp to take our land out here in the Nevada desert. They
5 will not succeed. These land thieves that are paid by us will be stope. Sorry
rainbow lovers, you can't get what we have worked for. A fight, we'll I'm all
in!!!
6

7 Clearly Mel Bundy has not changed his mind about the assault of April 12 or his
8 willingness to do it again.

9 Additionally, Mel Bundy maintains an active presence at Bundy Ranch. In the past, his
10 family has used gunmen to man checkpoints and conduct security patrols following the April 12
11 assault. His family's threats of force and past use of force have, to date, prevented law
12 enforcement officers from carrying out the court orders to remove Bundy's cattle from the public
13 lands and kept them from patrolling and enforcing the laws and regulations pertaining to the
14 large swath of public lands known as the Bunkerville Allotment. His Facebook posts make
15 clear that he is prepared to do so again.

16 If Mel Bundy were released little could be done to prevent his return to Bundy Ranch and
17 hunkering down on the property. He was there in the weeks leading up to his arrest and if
18 allowed to return could summon the same armed presence that blocked roads and law
19 enforcement from the area. The continued absence of a law enforcement presence on the
20 Bunkerville Allotment directly threatens the safety of others who wish to enjoy or use the same
21 land that the Bundy family now has free reign over.

22 Thus, Mel Bundy would pose a significant risk of non-appearance, allowing him to
23 bunker down at the Bundy Ranch, fortify it with armed guards and thereby require federal
24 officers to face the dangerous task of apprehending him. This is especially the case given the

1 charges and the potential sentence Mel Bundy faces if convicted of them. Mel Bundy has a
 2 strong incentive to flee because of the likelihood of a significant prison sentence if he is
 3 convicted. *See Townsend*, 897 F.2d at 995 (“[F]acing the much graver penalties possible under
 4 the present indictment, the defendants have an even greater incentive to consider flight.”).

5 Given the magnitude of the violence of Mel Bundy’s crimes coupled with his knowing
 6 and willful violation of federal laws and disregard for the authority of federal law enforcement
 7 officers, Mel Bundy cannot overcome the presumption that he is both a danger to others and to
 8 the community and presents a risk of non-appearance.

9 **B. Substantial Evidence Exists Establishing Mel Bundy’s Guilt**

10 In the immediate aftermath of the April 12 assault, federal law enforcement officers were
 11 forced to abandon the impoundment site, precluding them from conducting an immediate
 12 investigation. Out of safety concerns and the need to deescalate the violence and restore order,
 13 the remaining local law enforcement officers – who themselves were outnumbered by Bundy’s
 14 Followers – allowed the gunmen and the conspirators simply to leave the site without making
 15 any arrests, conducting any interviews, taking any statements, or obtaining any identification of
 16 the gunmen and other assailants.

17 Absent contemporaneous arrests and identifications, the investigation became purely
 18 historical in nature. The presence of many gunmen in and near the area of Bundy Ranch, the
 19 armed checkpoints and patrols, the presence of assault weapons in the militia camps, including
 20 (by some accounts) a .50 caliber machinegun, further increased the difficulty of conducting a
 21 physical investigation of Bundy Ranch or the impoundment site.

22 All of that said and despite those obstacles, the investigation began the day after the
 23 assault and continues to this day, identifying the assailants, where they came from, how they got
 24 to Nevada, their connections to Bundy and others and their role in the assault and the aftermath.

1 To date, the government has conducted hundreds of witness interviews; executed dozens
2 of search warrants; reviewed, organized and analyzed hundreds of thousands of pages of
3 documents (mostly from social media); reviewed, organized and analyzed thousands of pages of
4 telephone records; and organized, reviewed and analyzed hundreds of hours of audio and video
5 recordings.

6 In addition to his numerous statements captured on social media, Mel Bundy is captured
7 on video participating in an assault of the BLM convoy on April 9 and leading the assault and
8 extortion at the Impoundment site on April 12. A number of witnesses describe his involvement
9 in the conspiracy, attributing leadership roles and specific duties and strategic decisions to him,
10 as well as his activities at Bundy Ranch after the assault. The evidence overwhelmingly
11 establishes that Mel Bundy was a leader, organizer and a beneficiary of the conspiracy to impede
12 and assault the federal officers conducting impoundment operations on April 12.

13

14 **C. Mel Bundy's History and Characteristics Demonstrate the Danger and Risk
of Non-Appearance He Poses**

15 For two decades, Bundy and his family have grazed cattle on federal lands without
16 complying with BLM regulations or paying any grazing fees or other penalties, despite four
17 federal court orders directing him to cure these violations. For two decades, Mel Bundy has
18 assisted his father in doing so. When the Bundy family was presented with the impending court-
19 authorized impoundment of Bundy's cattle, Mel Bundy, a father of four, left his job in Round
20 Mountain, traveled to Bunkerville, Nevada, attempted to physically interfere with the
21 impoundment, fomented against the BLM, recruited an army of Followers who expressed a
22 willingness to raise weapons against federal law enforcement officers, and then led those
23 Followers in the assault on April 12.

1 Mel Bundy's rhetoric and his conduct relating to these charges makes clear that he has
2 not changed his mind about the BLM or the federal government. Between April 2014 and the
3 present he has repeatedly expressed a desire and determination to prevent federal officers from
4 performing their duties on public lands. As demonstrated above, Mel Bundy has declared a
5 personal war against the BLM and the federal government and there has been no evidence
6 adduced during this massive investigation to suggest that he has changed his mind about any of
7 that.

8 Further, there simply is no indication in any of the evidence that an Order for less
9 restrictive conditions from this Court will get Mel Bundy to now comply with Court Orders
10 where, up to this point, he hasn't complied with a single one. As shown above, he views the
11 federal government – which includes federal courts – as “vermin” which “together” his people
12 “will always scatter.” In his warped view of the world, federal law enforcement is the enemy
13 and he is the avenging warrior, fighting for his self-serving view of the Constitution.

14 There is no assurance that Mel Bundy will in the least adhere to pretrial restrictions
15 contained in yet another court order, which restrictions will no doubt include that he comply with
16 and follow all federal laws which would include federal court orders that require the removal of
17 his father's cattle from public lands. Every day that he is free, he enjoys benefits derived from
18 Bundy Ranch. Those benefits flow from the criminal enterprise operated by him and his family
19 for years, most recently culminating in retaining, and enjoying the benefits of, the proceeds of
20 the April 12 extortion. Every day Mel Bundy is free, he is in violation of federal law and federal
21 court orders.

22 **D. Mel Bundy Poses a Significant Danger to the Community**

23 Mel Bundy's conduct in April, 2014, risked the lives of many people – he incited and led
24 approximately four hundred people to travel to the BLM impoundment site to face off with

1 federal law enforcement officers, dozens of gunmen in support. But for the courageous restraint
2 of these officers, this violent assault would likely have met with violent and deadly ends.

3 Mel Bundy continues to put federal law enforcement officers, civilian employees, and
4 community members at risk with his conspiracy to impede BLM in performing their duties
5 around the country. Mel Bundy was willing to put these people at risk in April 2014 when faced
6 with the impoundment of his father's cattle. He supported and encouraged the armed takeover of
7 MNWR ostensibly over lands rights issues. That Mel Bundy now faces a lengthy incarceration if
8 convicted of the charges can only bode more dangerous conduct if he is released.

9 **E. Only Pretrial Detention Will Reasonably Assure the Safety of Others and the
Community and Mel Bundy's Future Appearance**

10 Mel Bundy cannot overcome the presumption of detention in this case. The charges, the
11 evidence, his history and characteristics, and the danger he poses to the community and others
12 establish that there are no conditions or combination of conditions that can address these risks.
13 As already discussed, any terms of release would have to include Mel Bundy's adherence to all
14 laws – not just those he thinks are Constitutional. He has demonstrated and stated that he will
15 not follow federal laws. To the contrary, he believes, as shown above, that the federal courts are
16 part of a foreign corporate entity that has unlawfully invaded his land.

17 Even the most stringent of conditions are insufficient to assure the safety of the
18 community or the appearance of the Defendant given that ultimately, they must rely on the
19 Defendant's good faith compliance. *See United States v. Hir*, 517 F.3d 1081, 1092 (9th Cir.
20 2008) (Noting that although the defendant and pretrial services proposed "strict" conditions,
21 "they contain[ed] one critical flaw. In order to be effective, they depend on [the defendant's]
22 good faith compliance."); see also *Tortora*, 922 F.2d 880, 886 (1st Cir. 1990) (concluding that
23 an extensive set of release conditions contained "an Achilles' heel ... virtually all of them
24

1 hinge[d] on the defendant's good faith compliance"). In *Tortora*, an alleged member of a
2 prominent mafia family stood trial for crimes under the racketing and organized crime statute.
3 The First Circuit considered the elaborate conditions proposed that would restrict any
4 communications with the defendant's cohorts. Ultimately, the court rejected those conditions,
5 recognizing that "the conditions as a whole are flawed in that their success depends largely on
6 the defendant's good faith-or lack of it. They can be too easily circumvented or manipulated."
7 *Tortora*, 922 F.2d at 886.

8 Such considerations are doubly present here, given that Mel Bundy's crimes in this case are
9 rooted in his family's defiance of federal court orders directed specifically to his father, and that
10 his commitment to flouting federal authority has been maintained in word and deed through the
11 present.

12 **III. CONCLUSION**

13 For the reasons stated herein, Mel Bundy is a danger to the community and poses a risk
14 of non-appearance. A presumption applies that he shall be detained and Mel Bundy cannot
15 overcome that presumption. The charges, the evidence, Mel Bundy's history and characteristics
16 all establish that no conditions or combination of conditions will reasonably assure the safety of
17 others, the community, or Mel Bundy's appearance at future proceedings.

18 ////

19 ////

20 ////

21 ////

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24 ////

1 Accordingly, the Government respectfully requests that the Court order Mel Bundy
2 detained pending trial.

3 DATED this 16th day of March, 2016.

4 Respectfully Submitted,

5 DANIEL G. BOGDEN
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6 /s/
7

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